

DUKE GROOVER
INTERIM COUNTY ATTORNEY

GOVERNMENT CENTER
P.O. BOX 247
MACON, GEORGIA 31202-0247
TELEPHONE: (478) 751-7651
FAX: (478) 751-7672



CRYSTAL JONES
SR. ASSISTANT COUNTY ATTORNEY

MICHAEL MCNEILL
ASSISTANT COUNTY ATTORNEY

COUNTY ATTORNEY'S
OFFICE

August 20, 2019

VIA OVERNIGHT EXPRESS

Spirit of America Theme Park and Development, LLC
Attn: Jeff C. Franklin
4671 Amberwood Trail
Marietta, Georgia 30062

RE: Notice of Default of Ground Lease of Sandy Beach Water Park

Dear Mr. Franklin,

This letter is to provide you the required notice of Macon-Bibb County's intent to declare the Ground Lease ("Lease") between Spirit of America Theme Park and Development, LLC ("Spirit"), and Macon-Bibb County ("County") entered into on December 19, 2014 in default and subject to termination. In addition to the Lease, a personal guaranty was provided by yourself as well as a Memorandum of Understanding which was subsequently amended. The Agreements concerned the development of a water park at Lake Tobeoskee Recreational Area that would be named Sandy Beach Water Park ("Water Park"). Despite countless concessions from the original agreement on the part of the County, Spirit has failed to meet numerous obligations under the Lease and Memorandum of Understanding.

The provisions of the Lease impose certain obligations upon Spirit, as lessee, and yourself, as Guaranty. These provisions were bargained for and agreed to in consideration of substantial expenditures by the County, including significant infrastructure construction, development, and maintenance. Specifically, Section 2 of the Lease provides that "Lessee shall occupy the Premises continuously throughout the Term of this Lease and shall not desert, surrender, abandon or cease using the Premises during the Term of this Lease." The term of the lease is twenty (20) years as defined in Section 4.1. As you are well aware, Sandy Beach Water Park has not opened or been staffed in 2019. The peak waterpark season of 2019 has now passed, and you have made no plans to open the park. This is in clear violation of Section 2 of the Lease.

Section 3.2 provides that Spirit shall pay 1.0% of Gross Revenues of the Project as rent. Again, because Spirit failed to comply with Section 2 of the Lease by failing to open for operations it has also failed to comply with Section 3.2 resulting in an extraordinary loss to the County.

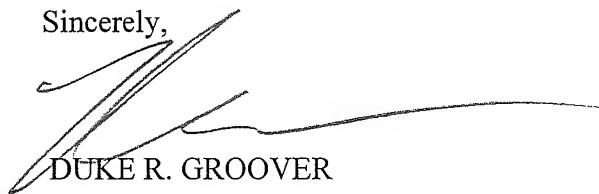
Section 9.4 of the Lease requires Spirit to “keep the Premises and Improvements in good order, condition and repair...” This Section of the Lease has been violated in a number of ways, including, but, not limited to, the fact that Spirit allowed the water and electricity to be cut off which damaged the improvements.

Finally, the Memorandum of Understanding outlined when various phases of the Water Park would be completed. As you know, this timeline was not complied with.

Accordingly, as provided in Paragraph 13 of the Lease, you have breached your obligations under the Lease and are thus in Default. The basis of your default includes, but, is not limited to, the following: Spirit has failed to pay all of the Rent due under the Lease [13.1(a)]; Spirit has failed to perform all of the terms, covenants and conditions including maintaining the premises, operating the Water Park, and completing phases timely [13.1(b)]; a receiver was appointed for Spirit for two years in violation of Section 13.1(c); and Spirit has committed waste to the Premises. [13.1(d)].

Therefore, the County declares Spirit to be in default under the terms of the Lease. Accordingly, the County may pursue any and all rights and remedies it has under the terms of the Lease and law arising out of Spirit’s default of the Lease.

Sincerely,

A handwritten signature in black ink, appearing to read "DUKE R. GROOVER".

cc: Joe Pelt, III (*via overnight express*)
David Hollingsworth (*via overnight express*)
Kevin Brown (*via overnight express*)